

AMENDED IN SENATE APRIL 24, 2003

SENATE BILL

No. 700

Introduced by Senators Florez and Sher

February 21, 2003

An act to amend Section 42310 of, and to add Sections 39011.5, 39023.3, 40724, 40724.5, and ~~41551.5~~ 41511.5, and 44559.9 to, and to amend and repeal Section 41705 of, the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 700, as amended, Florez. Air quality: emissions: stationary sources: *agricultural operations*.

(1) Existing law ~~prohibits any person from discharging, from any source, quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any person or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property. Existing law, that becomes inoperative on April 1, 2003 unless the California Integrated Waste Management Board adopts regulations governing organic composting sites prior to that date, specifically exempts from that prohibition any agricultural operations necessary for the growing of crops or the raising of fowl or animals. Existing law, that becomes operative on April 1, 2003, unless the board adopts those regulations, exempts from that prohibition odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.~~

This bill would eliminate that exemption for agricultural operations necessary for the growing of crops or the raising of fowl or animals.

~~(2) Existing law~~ authorizes the board of every air quality management district and air pollution control district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. Existing law exempts vehicles and certain types of equipment from those permit requirements.

This bill would eliminate that exemption for any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals. To the extent that the bill would increase the number of permits that a district board, electing to establish a permit system prior to January 1, 2004, would be required to issue, the bill would impose a state-mandated local program.

~~(3) Existing~~

(2) *Existing* law defines various terms governing the construction of air pollution control laws in the state.

This bill would define the terms “agricultural stationary source of air pollution” and “fugitive emissions.”

~~(4) The~~

(3) *The* existing federal Clean Air Act requires districts to adopt local programs for issuing operating permits to major stationary sources of air pollutants. The existing act defines a stationary source as any building, structure, facility, or installation that emits or may emit any air pollutant.

This bill would require, by July 1, 2004, each district in which a stationary source of air pollution is located, to adopt a rule or regulation that requires each agricultural stationary source to obtain, by January 1, 2005, every operating permit required by the federal act for stationary sources. The bill would require, by January 1, 2005, each district in which an agricultural activity is conducted to adopt best management practice standards for use by agricultural operations to reduce or eliminate air pollution from those activities.

This bill would require that an agricultural source of air pollution be regarded as a stationary source in the state for the purposes of the federal act. The bill would also require a district, when determining the quantity and type of air contaminants emitted from an agricultural source of air pollution, to include precursor emissions from those sources. The additional duties for districts under the bill would impose a state-mandated local program.

(4) *Existing law establishes the Capital Access Loan Program for Small Businesses, administered by the California Pollution Control*

Financing Authority, which provides loans through participating financial institutions to entities authorized to conduct business in the state and whose primary business location is in the state.

This bill would require the authority to expand the program to include outreach to financial institutions that service agricultural interests in the state for the purposes of funding air pollution control measures.

(5) Under existing law, any person who violates a rule, regulation, permit, or order of a district is guilty of a misdemeanor. Because this bill would increase the number of people who are subject to that provision, it would expand the scope of a crime, thereby imposing a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) *Agricultural operations necessary for growing crops or*
4 *raising fowl or animals are a significant source of directly emitted*
5 *particulates, and precursors of ozone and fine particulate matter.*
6 *These emissions have a significant adverse effect on the ability of*
7 *areas of the state, including, but not limited to, the Central San*
8 *Joaquin Valley, to achieve health-based state and federal ambient*
9 *air standards.*

10 ~~(2) Despite these adverse effects, current state law prohibits or~~
11 ~~otherwise restricts the ability of the State Air Resources Board and~~

~~air quality management districts and air pollution control districts
in the state from regulating emissions from agricultural sources.~~

~~(3)~~

(2) *Since 1999, the agriculture industry has reduced emissions
of oxides of nitrogen (NOx) by more than 200 tons per year;
emissions of particulate matter of 10 microns in diameter (PM 10)
by more than 400 tons per year; and emissions of volatile organic
compounds (VOCs) from agricultural chemicals by more than 20
percent.*

(3) *In the San Joaquin Valley, a large portion of the sources of
PM 10 emissions are area-wide sources whose emissions are
directly related to growth in population and the resulting
vehicle-miles traveled.*

(4) *All parties living or operating a business in an area that has
been classified as being a non- attainment area with respect to the
attainment of federal or state ambient air quality standards share
the responsibility of reducing emissions from all criteria
pollutants.*

(5) *The federal Clean Air Act (42 U.S.C. Section 7401 et seq.)
prohibits the state from adopting emission standards or limitations
less stringent than those established under the federal act,
including limitations on emissions from agricultural sources.*

~~(4)~~

(6) *Division 26 (commencing with Section 39000) of the
Health and Safety Code establishes numerous policies and
programs to reduce air pollutants for the protection of public
health. These policies and programs are targeted to virtually all
sources of air pollution except agricultural emissions.*

~~(5) health.~~

(7) *The purpose of the act adding this section is to establish a
new program at the state and regional levels to reduce air emissions
from agricultural sources in order to protect public health and the
environment.*

(b) *It is therefore the intent of the Legislature to require the
State Air Resources Board and air quality management districts
and air pollution control districts in the state to regulate stationary,
mobile, and area sources of agricultural air pollution.*

SEC. 2. *Section 39011.5 is added to the Health and Safety
Code, to read:*

1 39011.5. “Agricultural stationary source of air pollution” or
2 “agricultural stationary source” means a source of air pollution
3 that meets either of the following criteria:

4 (a) Is a confined animal facility, including, but not limited to,
5 any structure, building, installation, barn, corral, coop, feed
6 storage area, milking parlor, or system for the collection, storage,
7 treatment, and distribution of liquid and solid manure, if
8 domesticated animals, including, but not limited to, cattle, calves,
9 horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks are
10 corralled, penned, or otherwise cause to remain in restricted areas
11 for commercial agricultural purposes and feeding is by means
12 other than grazing.

13 (b) Is an internal combustion engine used in the production of
14 crops or the raising of fowl or animals, except an engine that is used
15 to propel implements of husbandry, as that term is defined in
16 Section 36000 of the Vehicle Code.

17 SEC. 3. Section 39023.3 is added to the Health and Safety
18 Code, to read:

19 39023.3. “Fugitive emissions” mean those emissions that
20 cannot reasonably pass through a stack, chimney, vent, or other
21 functionally equivalent opening, when using the best available
22 control technology without regard to cost.

23 SEC. 4. Section 40724 is added to the Health and Safety Code,
24 to read:

25 40724. Not later July 1, 2004, each district in which an
26 agricultural stationary source of air pollution is located shall adopt
27 a rule or regulation that requires each agricultural stationary
28 source to obtain, not later than January 1, 2005, every operating
29 permit required for stationary sources pursuant to Subchapter V
30 (commencing with Section 7661) of Chapter 85 of Title 42 of the
31 United States Code. Nothing in this section is intended to delay or
32 affect any action taken by a district to reduce emissions of air
33 contaminants from an agricultural stationary source prior to
34 January 1, 2004.

35 SEC. 5. Section 40724.5 is added to the Health and Safety
36 Code, to read:

37 40724.5. Not later January 1, 2005, each district in which an
38 agricultural activity, including, but not limited to, tilling, discing,
39 or activities related to tilling or discing, is conducted shall adopt
40 best management practice standards for use by agricultural

1 operations to reduce or eliminate air pollution from its agricultural
2 activities. Nothing in this section is intended to delay or affect any
3 action by a district to reduce emissions of air contaminants from
4 those activities prior to January 1, 2004.

5 SEC. 6. Section 41511.5 is added to the Health and Safety
6 Code, to read:

7 41511.5. (a) An agricultural source of air pollution shall be
8 regarded as a stationary source, as that term is defined in Section
9 7411 of Title 42 of the United State Code.

10 (b) For the purpose of determining the quantity and type of air
11 contaminants emitted from an agricultural source of air pollution,
12 the state board and a district shall include precursor emissions,
13 including, but not limited to, ammonia, nitrogen oxides, sulfur
14 oxides, and fugitive emissions from those sources.

15 (c) Nothing in this section shall limit or abridge the authority
16 granted pursuant to this division to the state board or a district to
17 regulate emissions of air contaminants from agricultural sources.

18 ~~SEC. 7. Section 41705 of the Health and Safety Code, as~~
19 ~~amended by Section 145 of Chapter 664 of the Statutes of 2002,~~
20 ~~is repealed.~~

21 ~~SEC. 8. Section 41705 of the Health and Safety Code, as~~
22 ~~amended by Section 144 of Chapter 664 of the Statutes of 2002,~~
23 ~~is amended to read:~~

24 ~~41705. (a) Section 41700 does not apply to odors emanating~~
25 ~~from any of the following:~~

26 ~~(1) Operations that produce, manufacture, or handle compost,~~
27 ~~as defined in Section 40116 of the Public Resources Code, if the~~
28 ~~odors emanate directly from the compost facility or operations.~~

29 ~~(2) Operations that compost green material or animal waste~~
30 ~~products derived from agricultural operations, and that return~~
31 ~~similar amounts of the compost produced to that same agricultural~~
32 ~~operations source, or to an agricultural operations source owned~~
33 ~~or leased by the owner, parent company, or subsidiary conducting~~
34 ~~the composting operation. The composting operation may produce~~
35 ~~an incidental amount of compost not exceeding 2,500 cubic yards~~
36 ~~of compost, which may be given away or sold annually.~~

37 ~~(b) If a district receives a complaint pertaining to an odor~~
38 ~~emanating from a compost operation exempt from Section 41700~~
39 ~~pursuant to paragraph (2) or (3) of subdivision (a), that is subject~~
40 ~~to the jurisdiction of an enforcement agency under Division 30~~

1 ~~(commencing with Section 40000) of the Public Resources Code,~~
2 ~~the district shall, within 24 hours or by the next working day, refer~~
3 ~~the complaint to the enforcement agency.~~

4 ~~(e) This section shall become inoperative on April 1, 2003,~~
5 ~~unless the California Integrated Waste Management Board adopts~~
6 ~~and submits regulations governing the operation of organic~~
7 ~~composting sites to the Office of Administrative Law pursuant to~~
8 ~~subdivision (e) of Section 43209.1 of the Public Resources Code~~
9 ~~on or prior to that date.~~

10 ~~SEC. 9.~~

11 *SEC. 7.* Section 42310 of the Health and Safety Code is
12 amended to read:

13 42310. A permit shall not be required for any of the following:

14 (a) Any vehicle.

15 (b) Any structure designed for and used exclusively as a
16 dwelling for not more than four families.

17 (c) An incinerator used exclusively in connection with a
18 structure described in subdivision (b).

19 (d) Barbecue equipment that is not used for commercial
20 purposes.

21 (e) Repairs or maintenance not involving structural changes to
22 any equipment for which a permit has been granted.

23 As used in this section, maintenance does not include operation.

24 ~~SEC. 10.~~

25 *SEC. 8.* Section 44559.9 is added to the Health and Safety
26 Code, to read:

27 44559.9. *The authority shall expand the Capital Access Loan*
28 *Program established by this article to include outreach to financial*
29 *institutions that service agricultural interests in the state for the*
30 *purpose of funding air pollution control measures.*

31 *SEC. 9.* No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution for
33 certain costs that may be incurred by a local agency or school
34 district because in that regard this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 However, notwithstanding Section 17610 of the Government
2 Code, if the Commission on State Mandates determines that this
3 act contains other costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code. If the statewide cost of the
7 claim for reimbursement does not exceed one million dollars
8 (\$1,000,000), reimbursement shall be made from the State
9 Mandates Claims Fund.

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